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State v. Pridgen Respondent's Brief Dckt. 42595

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COPY

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
) No. 42595
Plaintiff-Respondent,)
) Kootenai Co. Case No.
vs.) CR-2013-14855
)
MATTHEW LARRY PRIDGEN,)
)
Defendant-Appellant.)

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BRIEF OF RESPONDENT

APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF KOOTENAI

HONORABLE RICHARD S. CHRISTENSEN
District Judge

LAWRENCE G. WASDEN
Attorney General
State of Idaho

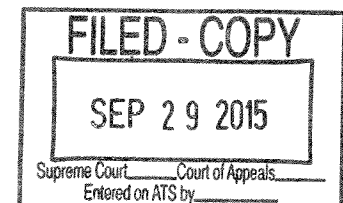
PAUL R. PANTHER
Deputy Attorney General
Chief, Criminal Law Division

MARK W. OLSON
Deputy Attorney General
Criminal Law Division
P. O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

ATTORNEYS FOR
PLAINTIFF-RESPONDENT

MAYA P. WALDRON
Deputy State Appellate
Public Defender
P. O. Box 2816
Boise, Idaho 83701
(208) 334-2712

ATTORNEY FOR
DEFENDANT-APPELLANT



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STATEMENT OF THE CASE

Nature of the Case

Matthew Larry Pridgen appeals from the judgment of conviction entered upon his guilty plea to first-degree stalking.

Statement of Facts and Course of Proceedings

A no-contact order prohibiting Pridgen from having contact with Carrie Williams was entered pursuant to Pridgen's charge and conviction for domestic battery. (Confidential exhibits, pp.16, 23.¹) In April 2013, in violation of that order, Pridgen wrote a letter to Williams. (Confidential exhibits, pp.16-17.) In May 2013, Pridgen called Williams from a pay phone. (Confidential exhibits, p.14.) In June 2013, a neighbor who was aware of the no-contact order called the police after she observed Pridgen entering Williams' residence. (R., pp.14-15.) Before police could arrive, Pridgen crawled into Williams' bed, put his arm around her neck, and pulled her towards him. (R., p.16.) Pridgen told Williams that he did not care about the no-contact order and that he just wanted to be with her. (Id.) Williams told Pridgen that he needed to leave. (Id.) Pridgen began to take off Williams' pants before Williams squirmed away. (Id.) Soon after, an officer arrived at the residence and arrested Pridgen. (R., pp.14-15.)

The state filed a complaint charging Pridgen with felony stalking, burglary, and attempted rape. (R., pp.20-21.) The magistrate court dismissed these charges at

¹ The PSI, motions and orders relating to the competency evaluation, and the competency evaluation itself, are contained within the electronic file, "MATTHEW LARRY PRIDGEN CR13-1855 CONFIDENTIAL.pdf." Citations to page numbers of the "Confidential exhibits" refer to the page numbers of this file.

the conclusion of the preliminary hearing, and instead, with the consent of the state, bound Pridgen over to the district court on a charge of battery with the intent to commit a serious felony. (R., p.42; Prelim Tr., p.63, L.6 – p.69, L.9.) In a second amended information, the state charged Pridgen with felony battery with intent to commit a serious felony, misdemeanor unlawful entry, and two counts of misdemeanor violation of a no-contact order. (R., pp.84-86.)

While the case was pending, Pridgen's attorney filed a motion requesting that the district court order an evaluation to assess Pridgen's competence to stand trial. (R., pp.87-88; Confidential exhibits, p.1.) The district court granted the motion. (Confidential exhibits pp.2-3.) However, Pridgen refused to fully participate in the evaluation, and the evaluator was unable to form an opinion with regard to Pridgen's competency. (Confidential exhibits pp.8-11.) At a subsequent hearing, Pridgen agreed to participate in a second evaluation on the ground that it would be limited to the relevant competency questions – whether he understood the nature of the proceedings against him and whether he was able to assist in his own defense. (3/31/14 Tr., p.23, Ls.6-15; p.25, L.12 – p.26, L.16.) However, Pridgen's counsel later informed the court that the evaluator refused to do a "piecemeal" evaluation. (5/12/14 Tr., p.19, L.20 – p.20, L.4.) The case remained scheduled for trial.

Shortly before trial, the state and Pridgen entered into a plea agreement, pursuant to which Pridgen pled guilty to an amended charge of felony stalking, and the state agreed to dismiss the three misdemeanor charges. (6/3/14 Tr., p.5, L.6 – p.6, L.24; R., p.150.) The state agreed to recommend probation if Pridgen was accepted into mental health court. (6/3/14 Tr., p.5, L.6 – p.6, L.24; R., p.150.) The

state filed an amended information which contained the felony stalking charge. (R., pp.151-152.) Prior to sentencing, Pridgen moved to withdraw his guilty plea. (R., pp.178-179.) After a hearing, the district court denied the motion. (R., pp.191-192; see generally 8/13/14 Tr.)

The district court imposed a unified four and one-half year sentence with two and one-half years fixed, but retained jurisdiction. (R., pp.206-208.) Pridgen timely appealed. (R., pp.209-212.) At the conclusion of the period of retained jurisdiction, the district court suspended the previously-imposed sentence and placed Pridgen on probation for three and one-half years. (Supp. R., pp.31-34; 2/13/15 Tr., p.20, L.14 – p.26, L.8.)

ISSUES

Pridgen states the issues on appeal as:

1. Did the district court abuse its discretion by abandoning its order for a competency evaluation after finding reason to doubt Mr. Pridgen's competence?
2. Is Mr. Pridgen's guilty plea void because the district court had no jurisdiction over the improperly-amended third Information charging Mr. Pridgen with first degree stalking?
3. Did the district court abuse its discretion by denying Mr. Pridgen's motion to withdraw his guilty plea because Mr. Pridgen had just reasons to withdraw the plea?

(Appellant's brief, p.12)

The state rephrases the issues on appeal as:

1. Has Pridgen failed to demonstrate that the district court abused its discretion with respect to its determinations regarding Pridgen's competency to enter a guilty plea?
2. Has Pridgen failed to demonstrate that the district court lacked jurisdiction to accept his guilty plea to first-degree stalking?
3. Has Pridgen failed to demonstrate that the district court abused its discretion by denying Pridgen's motion to withdraw his guilty plea?

ARGUMENT

I.

Pridgen Has Failed To Demonstrate That The District Court Abused Its Discretion With Respect To Its Determinations Regarding Pridgen's Competency To Enter A Guilty Plea

A. Introduction

Pridgen contends that the district court abused its discretion by not *sua sponte* continuing to attempt to assess Pridgen's competency after Pridgen's counsel withdrew his request for the court to do so. (Appellant's brief, pp.13-16.) Pridgen has failed to demonstrate that the district court abused its discretion under the relevant law.

B. Standard of Review

The decision whether to order a psychological evaluation to determine a defendant's competence to stand trial is ordinarily reviewed for an abuse of discretion. State v. Hanson, 152 Idaho 314, 325, 271 P.3d 712, 723 (2012). Unless the district court's finding is clearly erroneous, the appellate court will affirm a district court's determinations regarding a defendant's competency. State v. Hawkins, 148 Idaho 774, 777, 229 P.3d 379, 382 (Ct. App. 2009).

C. The District Court Acted Well Within Its Discretion With Respect To Its Determinations Regarding Pridgen's Competency

Idaho Code § 18-210 provides:

No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted, sentenced or punished for the commission of an offense so long as such incapacity endures.

If there is a reason to doubt a defendant's competency, the trial court "must order a 'qualified psychiatrist or licensed psychologist to examine and report upon the mental condition of the defendant to assist counsel with defense or understand the proceedings.'" Hanson, 152 Idaho at 325, 271 P.3d at 723 (quoting I.C. § 18-211(1)). The test for determining a defendant's competence to stand trial or to enter a guilty plea is whether he "has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational, as well as factual, understanding of the proceedings against him." Id. (citations and quotations omitted).

"There are 'no fixed or immutable signs which invariably indicate the need for further inquiry to determine fitness to proceed.'" Id. (quoting Drope v. Missouri, 420 U.S. 162, 180 (1975)). Although a defendant's attorney's input on the need for a competency evaluation is relevant, it "certainly is not determinative." Id. (citations and quotations omitted).

Idaho Code § 18-211(6) provides that "[i]f the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of mental disease or defect." The statute does not assign any particular duty to the district court in the event that an evaluator is precluded from making a competency determination on a defendant who is unwilling to participate in the examination.

In this case, Pridgen's counsel filed a motion requesting that the district court order an evaluation to assess whether Pridgen was competent to stand trial. (R.,

pp.87-88; Confidential exhibits, p.1.) The motion asserted that there was “reason to believe that the Defendant lack[ed] the capacity to understand the proceedings against him and may be unable to assist in his own defense,” but did not provide any specific information to support this assertion. (Confidential exhibits, p.1.) The district court did not expressly find that there was reason to believe that Pridgen lacked competency to stand trial, but it granted the motion and ordered the evaluation. (Confidential exhibits, pp.2-3.)

Pridgen was “marginally cooperative” with the competency evaluator. (Confidential exhibits, p.11.) Pridgen told the evaluator that he had agreed to participate in the evaluation in order to give himself and his attorney more time to prepare his defense. (Confidential exhibits, p.10.) The evaluator noted that “[t]here was no evidence of disturbances of perceptions or thought which would have been suggestive of a psychotic disorder.” (Id.) Pridgen told the evaluator that he had never been diagnosed with or treated for any mental illness. (Id.) However, the evaluator concluded that “[i]t was not possible, within the constraints of this evaluation, to determine whether the lack of compliance of this individual was due to an inability, an unwillingness, a mental health issue, personality features, interpersonal features, oppositional tendencies, or a combination.” (Confidential exhibits, p.11.) Therefore, the evaluator was “unable to form an opinion regarding mental health issues, or to assess [Pridgen’s] basic understanding of legal concepts and ability to assist in his own defense.” (Id.)

At a subsequent hearing, Pridgen’s counsel expressed that he was still concerned about Pridgen’s competence, and that there were “several pieces of

evidence” that Pridgen was not permitting him to disclose that would “strongly show that he has competency issues.” (3/31/14 Tr., p.5, L.13 – p.8, L.24.) Without providing specifics, Pridgen’s counsel also stated that Pridgen “cannot make informed decisions about his defense,” and “gets confused and...very upset.” (3/31/14 Tr., p.8, Ls.7-18.) Pridgen’s counsel proposed that the court either order Pridgen to submit to another competency evaluation, or order the involuntary hospitalization of Pridgen and require him to undergo treatment. (3/31/14 Tr., p.6, L.20 – p.7, L.25.)

Pridgen then spoke on his own behalf and expressed his concerns about the “reliability” of the evaluation, and indicated that the scope of the evaluation was broader than he had anticipated. (3/31/14 Tr., p.15, L.18 – p.18, L.8.) Upon further discussion between the district court and the parties, the court expressed a willingness to enter a new order that would direct the competency evaluator to limit its examination and conclusions to the question of Pridgen’s capacity to understand the proceedings against him, and to assist in his own defense. (3/31/14 Tr., p.18, L.9 – p.26, L.5.) Pridgen indicated that he would agree to participate in such an evaluation. (3/31/14 Tr., p.26, Ls.7-16; p.30, Ls.3-4.) Pridgen’s counsel stated that he would prepare an order consistent with the district court’s proposal. (3/31/14 Tr., p.26, L.17 – p.28, L.21.)

By the time of the next court hearing approximately two months later, Pridgen was represented by new counsel. (See generally 5/9/14 Tr.) The district court observed that Pridgen’s prior counsel did not prepare a new order for a competency evaluation. (5/9/14 Tr., p.14, L.5 – p.15, L.14.) At the next status conference,

Pridgen's counsel informed the court that Pridgen's prior counsel had contacted the evaluator, but that the evaluator refused to do a "piecemeal, part here, part there type of an evaluation." (5/12/14 Tr., p.19, L.18 – p.20, L.4.) Pridgen's counsel further represented that Pridgen's prior counsel had intended to withdraw his motion for a competency evaluation. (5/12/14 Tr., p.20, Ls.2-4.) Pridgen's counsel did not ask the court to order any additional evaluations, to hold an additional competency hearing, or to otherwise further pursue a determination on the question of Pridgen's competency. Approximately three weeks later, on the date of the scheduled jury trial, Pridgen pled guilty to the amended felony stalking charge. (See generally 6/3/14 Tr.)

Pridgen has failed to demonstrate that the district court abused its discretion under the applicable law. As provided by I.C. § 18-211(1), the court appointed a licensed psychologist to evaluate whether Pridgen was competent to stand trial. After the evaluator concluded that it could not make a competency determination in light of Pridgen's refusal to fully participate, the district court indicated its willingness to order a second competency evaluation. At this point, Pridgen's counsel essentially withdrew his request for the court to facilitate future attempts to evaluate Pridgen's competence. Idaho Code § 18-211 did not require the district court to take any additional actions regarding this issue at this point.

While a trial judge is "under a continuing duty to observe a defendant's ability to understand the proceedings against him," State v. Lovelace, 140 Idaho 53, 72, P.3d 278, 297 (2003), there is no indication in the record that the district court violated its duty in this case. Aside from the unspecified concerns expressed by

Pridgen's counsel (who later withdrew his motion for a competency evaluation), there is no indication in the record that Pridgen was incompetent to stand trial or to enter a guilty plea. A review of the hearing transcripts reveals that while Pridgen was occasionally long-winded and somewhat unfocused, he was able to express himself coherently, and demonstrated an understanding of the criminal proceedings against him. (See e.g., 3/31/14 Tr., p.15, L.1 – p.18, L.8; 6/3/14 Tr., p.7, L.14 – p.16, L.8; 9/16/14 Tr., p.47, L.2 – p.55, L.14.) In particular, Pridgen was able to coherently explain his concerns that the first competency evaluation exceeded the scope of the relevant question of his competence. (3/31/14 Tr., p.15, L.1 – p.18, L.8.) In addition, despite an extensive criminal history that includes at thirteen misdemeanor criminal convictions, there is no indication in the record that Pridgen was previously declared incompetent to stand trial, or that he even had been diagnosed with or treated for any particular mental health condition or disorder. (Confidential exhibits, pp.8-11, 20-26.)

In light of this absence of evidence that Pridgen might be incompetent to stand trial, the district court was not required to *sua sponte* order additional competency evaluations in response to Pridgen's counsel's vague expressed concerns, particularly where counsel later essentially retracted those concerns by electing not to further pursue the competency issue. Pridgen has therefore failed to demonstrate that the district court abused its discretion.

In a footnote contained in his Appellant's brief, Pridgen also appears to contend that Pridgen's conviction violated his constitutional due process rights. (Appellant's brief, p.13 n.7 (citing Pate v. Robinson, 383 U.S. 375, 378 (1966))). The

conviction of a legally incompetent person violates due process, and where the evidence before the court raises a *bona fide* doubt about the defendant's competency, due process requires that a competency hearing be held. Robinson, 383 U.S. at 378-385. In this case, as discussed above, the district court conducted a competency hearing and ordered a competency evaluation even though Pridgen's counsel's expressed concerns about Pridgen's competence were unspecified and unsupported. Because the record is otherwise devoid of evidence indicating that Pridgen was incompetent to stand trial, the district court was not required to conduct additional hearings or order additional evaluations after Pridgen's counsel abandoned the competency issue.

Based upon the evidence before it regarding Pridgen's ability to assist in his own defense and to understand the nature of the proceedings against him, the district court acted well within its discretion in declining to *sua sponte* order an additional competency evaluation, or to otherwise further pursue the question of Pridgen's competency after Pridgen's attorney withdrew his request for the court to do so. This Court should therefore affirm Pridgen's conviction.

II.

Pridgen Has Failed To Demonstrate That The District Court Lacked Jurisdiction To Accept His Guilty Plea To First-Degree Stalking

A. Introduction

Pridgen contends that the district court lacked jurisdiction to accept his guilty plea to first-degree stalking. (R., pp.16-20.) Specifically, Pridgen contends that the stalking charge, which the state included in its third amended information, was not subject to a probable cause determination at a preliminary hearing as required by

state law. (Id.) Pridgen's argument fails because his guilty plea to the charge waived his right to a preliminary hearing.

B. Standard of Review

Whether a court has jurisdiction is a question of law that may be raised at any time and is subject to de novo review. State v. Jones, 140 Idaho 755, 757, 101 P.3d 699, 701 (2004) (citing Pizzuto v. State, 127 Idaho 469, 471, 903 P.2d 58, 60 (1995), and State v. Barros, 131 Idaho 379, 381, 957 P.2d 1095, 1097 (1998)).

C. The District Court Had Subject Matter Jurisdiction To Accept Pridgen's Guilty Plea To Felony Stalking

"Subject matter jurisdiction is the power to determine cases over a general type or class of dispute." Idaho courts have "subject matter jurisdiction over a crime if any essential element of the crime, including the result, occurs within Idaho." State v. Doyle, 121 Idaho 911, 914, 828 P.2d 1316, 1319 (1992). "The information, indictment, or complaint alleging an offense was committed within the State of Idaho confers subject matter jurisdiction upon the court." State v. Rogers, 140 Idaho 223, 228, 91 P.3d 1127, 1132 (2004). An invalid charging document does not confer subject matter jurisdiction. State v. Lute, 150 Idaho 837, 840-41, 252 P.3d 1255, 1258-1259 (2011).

The Idaho Supreme Court has held that a charging indictment is jurisdictionally invalid where the defendant was acquitted of the charged offense at trial and the district court allowed a post-acquittal amendment to a non-included offense. State v. Flegel, 151 Idaho 525, 526-527, 261 P.3d 519, 520-521 (2011) ("To allow a prosecutor to amend an indictment to charge an offense other than that for

which the defendant was held to answer would permit the prosecutor to, in essence, become the grand jury.”). Thus, the jury’s acquittal on the only valid charge against Flegel ended the district court’s jurisdiction over the case. Id.

More recently, in an opinion which is now pending review by the Idaho Supreme Court, the Idaho Court of Appeals applied Flegel more broadly, holding that a pretrial amendment to a non-included offense rendered the charging indictment jurisdictionally invalid even where the defendant pled guilty to the new charge, and even where there was no intervening trial acquittal of the original charge. State v. Schmeirer, ___ Idaho ___, ___ P.3d ___, 2014 WL 6652924 (Ct. App. 2014), *petition for review granted*. Flegel does not control the outcome in this case, and the state asserts that Schmeirer was wrongly decided.

In this case, Pridgen waived his right to a preliminary hearing on the felony stalking charge by pleading guilty to that charge. It is well-settled that a valid plea of guilty, voluntarily and understandingly given, waives all non-jurisdictional defects and defenses, whether constitutional or statutory, in prior proceedings. State v. Dunlap, 123 Idaho 396, 399, 848 P.2d 454, 457 (Ct. App. 1993); State v. Fowler, 105 Idaho 642, 643, 671 P.2d 1105, 1106 (Ct. App. 1983).

In Fowler, the defendant asked the court to overturn his conviction because of a defect in the preliminary hearing process. Fowler asserted that “the magistrate committed prejudicial error in letting the state amend the complaint against him – to include the restaurant burglary charge – during the course of the preliminary hearing.” Fowler, 105 Idaho at 643, 671 P.2d at 1106. The Idaho Court of Appeals

concluded that Fowler waived his right to challenge the probable cause determination regarding the added charge once he pled guilty:

[W]e hold that Fowler's plea of guilty to that new charge waived his right to contest the preliminary hearing procedure. The purpose of a preliminary hearing is to determine whether there is probable cause to require the accused to stand trial. It is well settled that a valid plea of guilty, voluntarily and understandingly given, waives all non-jurisdictional defects and defenses, whether constitutional or statutory, in prior proceedings. Here Fowler does not attack the entry and acceptance of his plea. **His plea of guilty to the restaurant burglary therefore constituted a waiver of the procedure to determine probable cause, just as if he had waived the preliminary hearing itself, on that charge.**

Fowler, 105 Idaho at 643, 671 P.2d at 1106 (emphasis added, internal citations omitted).

Likewise, in this case, Pridgen's plea of guilty to the felony stalking charge constituted a waiver of the procedure to determine probable cause, just as if he had expressly waived the preliminary hearing itself. Further, unlike in Flegel, there was no intervening acquittal which ended the district court's jurisdiction over the charging information. Therefore, the district court had subject matter jurisdiction to accept Pridgen's plea to the felony stalking charge.

Pridgen has failed to demonstrate that the district court lacked jurisdiction to accept his guilty plea to felony stalking. This Court should therefore affirm Pridgen's judgment of conviction.

III.

Pridgen Has Failed To Demonstrate That The District Court Abused Its Discretion By Denying Pridgen's Motion To Withdraw His Guilty Plea

A. Introduction

Pridgen contends that the district court abused its discretion by denying his motion to withdraw his guilty plea. (Appellant's brief, pp.20-28.) A review of the record reveals that Pridgen has failed to establish either that his plea was constitutionally invalid, or there was any other just reason for the withdrawal of his plea.

B. Standard Of Review

"Appellate review of the denial of a motion to withdraw a plea is limited to whether the district court exercised sound judicial discretion as distinguished from arbitrary action." State v. Hanslovan, 147 Idaho 530, 535-536, 211 P.3d 775, 780-781 (Ct. App. 2008) (citing State v. McFarland, 130 Idaho 358, 362, 941 P.2d 330, 334 (Ct. App. 1997)). An appellate court will defer to the trial court's factual findings if they are supported by substantial competent evidence. State v. Holland, 135 Idaho 159, 161, 15 P.3d 1167, 1169 (2000); Gabourie v. State, 125 Idaho 254, 256, 869 P.2d 571, 573 (Ct. App. 1994).

C. The District Court Acted Well Within Its Discretion To Deny Pridgen's Motion To Withdraw His Guilty Plea

A motion to withdraw a guilty plea may be made before sentence is imposed. I.C.R. 33(c). The presentence withdrawal of a guilty plea is not an automatic right, however. State v. Carrasco, 117 Idaho 295, 298, 787 P.2d 281, 284 (1990); Hanslovan, 147 Idaho at 535, 211 P.3d at 780. The defendant bears the burden of proving, in the district court, that the plea should be withdrawn. Hanslovan, 147

Idaho at 535, 211 P.3d at 780; Griffith v. State, 121 Idaho 371, 374-375, 825 P.2d 94, 97-98 (Ct. App. 1992).

In ruling on a motion to withdraw a guilty plea, the court must determine, as a threshold matter, whether the plea was entered knowingly, intelligently and voluntarily. Hanslovan, 147 Idaho at 536, 211 P.3d at 781; State v. Rodriguez, 118 Idaho 957, 959, 801 P.2d 1308, 1310 (Ct. App. 1990). As a matter of constitutional due process, a plea is knowing and voluntary if it is “entered by one fully aware of the direct consequences, including the actual value of any commitments made to him by the court, prosecutor, or his own counsel.” Brady v. United States, 397 U.S. 742, 755 (1970). If the plea was voluntary, in the constitutional sense, then the court must determine whether other just cause exists to allow the defendant to withdraw the plea. Hanslovan, 147 Idaho at 536, 211 P.3d at 781. The good faith, credibility, and weight of the defendant’s assertions in support of his motion to withdraw his plea are matters for the trial court to decide. Id. at 537, 211 P.3d at 782.

A district court may also consider prejudice to the state in determining whether to permit a defendant to withdraw his guilty plea. State v. Henderson, 113 Idaho 411, 414, 744 P.2d 795, 798 (Ct. App. 1987); see also Hanslovan, 147 Idaho at 536, 211 P.3d at 781 (“Once the defendant has met this burden [of showing just cause], the state may avoid withdrawal of the plea by demonstrating the existence of prejudice.”

After his guilty plea, but prior to sentencing, Pridgen filed a motion to withdraw his guilty plea. (R., pp.178-179.) Pridgen asserted: (1) his plea was involuntary

because he did not understand the terms of the plea agreement; and (2) he was innocent of the crime. (Id.)

At the hearing on his motion, Pridgen testified that his prior appointed counsel did not timely provide him with discovery, and that when he did eventually receive it, he learned that the allegations being made against him were not true. (8/13/14 Tr., p.6, L.23 – p.8, L.24.) However, Pridgen also acknowledged that he received discovery by April 2014, two months before he pled guilty in June 2014. (8/13/14 Tr., p.8, Ls.17-24.) Pridgen also testified that he didn't understand the plea agreement and that at the time he entered the plea he was "being pushed in a direction that [he] didn't want to go [by] a previous attorney." (8/13/14 Tr., p.6, L.22 – p.7, L.7.) However, Pridgen also acknowledged that this "previous attorney," Christopher Schwartz, was no longer representing him at the time he entered his guilty plea. (8/13/14 Tr., p.12, L.19 – p.13, L.8.) After the state elicited this information on cross-examination, Pridgen set forth a different argument – that his new counsel, Tyler Wirick, was not prepared for trial. (8/13/14 Tr., p.13, L.1 – p.14, L.4.) Pridgen further testified that Wirick did not explain to him the nature of the charges against him, or inform him of the rights he would waive by pleading guilty. (8/13/14 Tr., p.16, L.9 – p.17, L.12.) Finally, Pridgen testified that during the change of plea hearing, he did not understand the district court's explanation of his rights or of the charges against him. (8/13/14 Tr., p.18, L.2 – p.19, L.3.)

The state opposed Pridgen's motion, and asserted that it would suffer prejudice should the court permit Pridgen to withdraw his plea. (8/13/14 Tr., p.30, Ls.6-15.) Specifically, the state represented to the court that Pridgen "effectively

terrified the victim,” that the victim had moved out of state and was reluctant to cooperate with the prosecution, and that the state may not be able to go forward should Pridgen be permitted to withdraw his plea. (Id.)

The district court denied Pridgen's motion to withdraw his guilty plea. (R., pp.191-192; 8/13/14 Tr., p.31, L. 19 – p.35, L.9.) The court first concluded that Pridgen's testimony at the hearing was “calculated” and “evasive.” (8/13/14 Tr., p.32, Ls.5-9.) This credibility determination cannot be disturbed on appeal. Hanslovan, 147 Idaho at 537, 211 P.3d at 782. The district court further concluded that the colloquy conducted at the change of plea hearing adequately informed Pridgen of his relevant rights and of the nature of the plea agreement. (8/13/14 Tr., p.32, L.16 – p.33, L.23.) Finally, the court concluded that at the change of plea hearing, Pridgen indicated that he understood the charges against him and the nature of the plea agreement. (8/13/14 Tr., p.33, L.24 – p.34, L.23.)

A review of the transcript of the change of plea hearing colloquy supports the conclusions of the district court. (6/3/14 Tr., p.7, L.14 – p.15, L.11.) Pridgen specifically testified that that his attorney's recitation of the plea agreement reflected his understanding of the agreement, that he understood the rights explained to him by the court, that he did not need to speak further with his attorney about those rights, that he was not under any treatment for any mental illness, and that he was not taking any medications that would affect his ability to make a voluntary decision to plead guilty. (Id.) Finally, the court specifically informed Pridgen that he would not be able to withdraw his guilty plea after he entered it. (6/3/14 Tr., p.9, L.25 – p.10, L.1.) Pridgen cannot show that the district court abused its discretion.

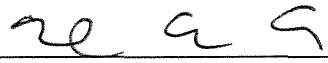
On appeal, Pridgen also asserts that his plea agreement was unenforceable because it was not subject to valid consideration. (Appellant's brief, pp.26-28.) Specifically, Pridgen, relying on his arguments with respect to the court's jurisdiction over the third amended charging information (see Section II, *supra*), contends that the state could not have lawfully fulfilled its promise to amend Pridgen's charge for felony battery with the intent to commit a serious felony to the charge of felony stalking. (Id; citing State v. Peterson, 148 Idaho 593, 595, 226 P.3d 535, 537 (2010)). Pridgen's argument fails because, as discussed above, the district court had jurisdiction to accept Pridgen's plea to the amended charge.

Pridgen has failed to demonstrate either that his plea was constitutionally invalid, or that there exists other "just cause" for the withdrawal of his plea. He has also failed to demonstrate that the district court acted arbitrarily, as opposed to exercising sound judicial judgment, in denying his motion to withdraw his plea. He has therefore failed to demonstrate that the district court abused its discretion.

CONCLUSION

The state respectfully requests that this Court affirm the judgment of conviction entered upon Pridgen's guilty plea to felony stalking.

DATED this 29th day of September, 2015.



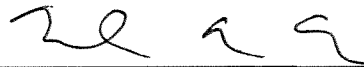
MARK W. OLSON
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 29th day of September, 2015, served a true and correct copy of the attached BRIEF OF RESPONDENT by causing a copy addressed to:

MAYA P. WALDRON
DEPUTY STATE APPELLATE PUBLIC DEFENDER

to be placed in the State Appellate Public Defender's basket located in the Idaho Supreme Court Clerk's office.

A handwritten signature in black ink, appearing to read 'M. W. Olson', is written over a horizontal line.

MARK W. OLSON
Deputy Attorney General

MWO/dd